

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
October 12, 2004**

PLACE: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Conze, Forman, Spain, Kenny

STAFF ATTENDING: Ginsberg, Keating (no court recorder present)

PUBLIC HEARING

Chairman Damanti read the following agenda item:

Continuation of Public Hearing regarding Special Permit Application #66-J, Darien YMCA, 2420 Boston Post Road. Proposing to replace existing racquetball and squash courts with group exercise rooms; replace and upgrade mezzanine in Wellness Center; enlarge and upgrade parking lot; amend operating hours; and perform related site development activities. Subject property is located on the south side of Boston Post Road, approximately 520 feet east of its intersection with Weeds Landing, and is shown on Tax Assessor's Map #53 as Lot #60, R-1/2 Zone.

It was noted that the YMCA has requested additional time to perform a complete analysis of the parking conditions and therefore, the Commission agreed to reconvene the public hearing on November 9, 2004 at 8:00 p.m. in Room 206 of the Darien Town Hall. A motion to that effect was made by Mrs. Forman, seconded by Mr. Kenny and unanimously approved.

GENERAL MEETING

Chairman Damanti read the following agenda item:

Coastal Site Plan Review #75-A, John B. Beinecke, 14 Contentment Island Road.
Proposal to construct a reinforced wall adjacent to an existing wall, and add fill behind it.

Paul Foley was present to represent the property owners. He explained to the Commission that the retaining wall would be approximately 25 feet in length and would be the same style brick as the existing retaining wall. The average height of the retaining wall will be 6 feet and it would be approximately two feet closer to the shore line than the existing retaining wall. The Commission members said that it would be a Coastal Site Plan Review of minor consequence and did not require a public hearing. Photographs and diagrams of the existing and proposed conditions were discussed. The Commission members concluded that the proposed replacement retaining wall would not have any negative impacts on coastal resources. The following motion was made: that the Commission approve the request for the replacement retaining wall in accordance with the submitted plans and drawings. The motion was made by Mrs. Forman, seconded by Mr. Spain and unanimously approved.

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Chairman Damanti read the following agenda item:

Amendment of Subdivision Application #599, 2239 Boston Post Road.

Request to build a replacement house.

Commission members noted that the subdivision approval had indicated that the existing house at 2239 Boston Post Road would be preserved because it was a colonial style home and was very old. The developer replaced windows and the roof and sold it to a different builder/developer. That builder/developer obtained approval to relocate the existing historic house to a different portion of the lot and then construct a substantial addition to that residence.

Architect DeLeo explained that the moving company stabilized the existing house in its original location, and got ready to slide the house to the new location, but before they could do that, a large piece of equipment hit one of the steel support beams under the old building. This caused the building to collapse in on itself. The house was destroyed. Mr. DeLeo said that he has discussed the situation with the Town Historian, Marian Castell and the Director of the Historical Society, Judith Groppa and he and the builder have agreed that they will use the same floor plan to replicate the old house. Everything will be the same, except that the 7'4" tall ceilings on the first floor will be revised to be 7'6" tall to comply with the current Building Code requirements. In response to questions, Mr. DeLeo said that the owner cannot claim damages from the insurance company because it was the owner's equipment that hit the support beam, not the moving company equipment. He said that the owner is still in the process of dealing with the insurance company.

After further discussion, the Commission members agreed that they would like to speak to the owner and someone who was on the site when the building collapsed. The next opportunity to meet with those people would be at the meeting of November 9th. Commission members said they would like to get a better understanding of what has already happened and what is now planned for the construction.

Mr. Ginsberg will invite the owner and someone who is at the site to attend the next available meeting which will be November 9th.

Mr. Damanti then read the next agenda item:

Flood Damage Prevention Application #215, Land Filling & Regrading Application #130, Peter Horan & Beth Stanley-Brown, 7 Fresh Meadows Lane. Proposing to fill and regrade back yard and perform related site development activities within a regulated area. Subject property is located on the east side of Fresh Meadows Lane, approximately 400 feet north of its intersection with Middlesex Road, and is shown on Assessor's Map #25 as Lot #92-3, R-1/3 Zone.

The following motion was made: that the Commission waive the process of reading the entire draft Resolution aloud, because each member has had an opportunity to review the draft in preparation for the meeting. The motion was made by Mr. Spain, seconded by Mr. Conze and unanimously approved. After a brief discussion about the proposed regrading project, the following motion was made:

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That the Commission adopt the following Resolution to approve the project subject to conditions and stipulations:

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ADOPTED RESOLUTION
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Application Number: Flood Damage Prevention Application #215
Land Filling & Regrading Application #130

Subject Property: 7 Fresh Meadows Lane
Tax Assessor's Map #25 Lot #92-3

Name and Address of Applicant: Peter Horan & Beth Stanley-Brown
And Property Owner 7 Fresh Meadows Lane
Darien, CT 06820

Name and Address of Applicant's Representative: John Pugliese
C/o Edward J. Frattaroli, Inc.
623 Mill River Street
Stamford, CT 06902

Activity Being Applied For: Proposing to fill and regrade back yard and perform related site development activities within a regulated area.

Property Location: Subject property is located on the east side of Fresh Meadows Lane, approximately 400 feet north of its intersection with Middlesex Road.

Zone: R-1/3

Date of Public Hearing: September 28, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 16 & 23, 2004

Newspaper: Darien News-Review

Date of Action: October 12, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 21, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. This application is to fill and regrade back yard and perform related site development activities within a regulated area. At one point, the applicants considered the installation of a swimming pool, but that is not part of this application. The subject application is similar to that of the adjacent Voges property at 5 Fresh Meadows Lane, which also sought to move an existing retaining wall to the rear property line. The Voges' application was recently approved by the Planning & Zoning Commission.
2. The project on the subject property was approved by the Environmental Protection Commission (EPC) on September 8, 2004 as part of EPC 51-2004. That approval is hereby incorporated by reference.
3. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
5. The proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.
6. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #215 and Land Filling & Regrading Application #130 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The proposed work is shown on the plans submitted to the Commission entitled:
 - 7 Fresh Meadows Lane, by Edward J. Frattaroli, Inc., scale 1"=20', dated May 11, 2004 and last revised 8/20/04, Dwg. No. 2.
 - Horan Residence, 7 Fresh Meadows Lane, by Marders, scale 1/8"=1'-0", dated 8-20-04.
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These

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sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

- C. Due to the minor nature of the project, the provision of a Performance Bond is hereby waived.
- D. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- F. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (October 11, 2005). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

The motion was made by Mr. Spain, seconded by Mrs. Forman and unanimously approved.

Chairman Damanti read the following agenda item:

Land Filling & Regrading Application #127, Shedd & Jane Glassmeyer, 2 McCrea Lane.
Proposing to install a stone wall and fence and add fill behind the wall and perform related site development activities. Subject property is located on the north side of McCrea Lane, at the northeast corner formed by its intersection with Old King's Highway South, and is shown on Assessor's Map #49 as Lot #26, R-1/2 Zone.

The following motion was made: that the Commission waive the process of reading the entire draft Resolution aloud because each member has had an opportunity to review the draft in preparation for the meeting. The motion was made by Mr. Spain, seconded by Mr. Conze and unanimously approved. The Commission members discussed the project and noted that the replacement fence will need to comply with the variance granted by the Zoning Board of Appeals. The total height of the wall and fence combination will not exceed six feet when viewed from the Old King's Highway South area.

The following motion was made: that the Commission adopt the following Resolution to approve the project subject to a number of conditions and stipulations:

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ADOPTED RESOLUTION
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Application Number: Land Filling and Regrading Application #127

Tax Assessor's Map #49 Lot #26

Name and Address of Property Owner: Shedd & Jane Glassmeyer
And Applicant: 2 McCrea Lane
Darien, CT 06820

Name and Address of William W. Seymour & Associates
Applicant's Representative: 170 Noroton Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to install a stone wall and fence and add fill behind the wall and perform related site development activities.

Property Location: Subject property is located on the north side of McCrea Lane, at the northeast corner formed by its intersection with Old King's Highway South.

Zone: R-1/2 Zone

Date of Public Hearing: September 28, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 16 & 23, 2004

Newspaper: Darien News-Review

Date of Action: October 12, 2004

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
October 21, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

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- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to install a stone wall and fence and add fill behind the wall within 15 feet of a property line and perform related site development activities. The amount of fill to be placed will be up to eighteen inches (18") in some spots, but in most locations, the amount of fill will be less than that. No trees are proposed to be removed as part of this proposal. The applicant also noted during the public hearing that they propose to rebuild a headwall in the southeast corner of the property. As there is no filling or regrading associated with that project, that activity does not require review or action by the Commission.
2. The Zoning Board of Appeals (ZBA) recently acted upon a related application in Calendar No. 65-2004. The application was granted with stipulations in part and denied in part. That decision is hereby incorporated by reference.
3. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling Application #127 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Subject to the stipulations of the Zoning Board of Appeals variance, the filling and regrading shall be in accordance with the plans submitted to the Commission entitled:
 - Grading Plan Plan (sic) prepared for Shedd Glassmeyer Jane Glassmeyer, 2 McCrea Lane, by John Martucci, PE, scale 1"=20', dated August 18, 2004 and last revised 8/24/04.
- B. No portion of the fence or wall shall be placed in violation of Section 363 **Visibility at Intersections**. Also the total height of the wall and fence is noted on the plans not to exceed 6 feet. This shall be measured from the lowest ground adjacent to the wall to the top of the fence. In this way, the appearance to the general public on the street and to the neighboring property owners will be that of a six foot tall wall/fence combination.
- C. Due to the minor nature of the project, the provision of a Performance Bond is hereby waived.
- D. Sediment and erosion controls shall be installed to properly manage storm water runoff and to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the

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approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- F. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- G. This permit shall be subject to the provisions of Section 858 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (October 11, 2005). This may be extended as per Section 858.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

The motion was made by Mr. Spain, seconded by Mrs. Forman and unanimously approved.

Chairman Damanti read the following agenda item:

Flood Damage Prevention Application #210, Land Filling & Regrading Application #123, Per & Jeanne Sekse, 29 Outlook Drive. Proposing to install pool with patio, and regrade the rear yard and perform related site development activities. Subject property is located on the east side of Outlook Drive approximately 500 feet south of its intersection with Woodland Drive, and is shown on Tax Assessor's Map #52 as Lot #70, R-1/2 Zone.

Commission members discussed the relocation of the existing wall and the location of the replacement wall and fence. They indicated that storm water runoff is still a concern that needs to be carefully addressed and monitored. They noted that work within the 50 foot regulated area around the wetlands has been approved by the Environmental Protection Commission.

After further discussion, the staff was instructed to draft a Resolution to approve the project subject to a number of conditions and stipulations including: commitment of the applicant regarding the wall reconstruction and proper management of storm drainage; verification of the locations of features by the surveyor; verification of the storm water runoff pattern by the engineer; a commitment by the owner to fix the drainage conditions first, before the issuance of the Zoning Permit for the pool and prior to further regrading of the property; and specification of the number of cubic yards involved in the regrading. The staff will draft a Resolution for consideration at a future meeting.

Chairman Damanti read the following agenda item:

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Business Site Plan #154-A/Special Permit, Number 870 Boston Post Road LLC, 870 Boston Post Road. Proposing to construct a two-story addition to the existing office building and perform related site development activities. Subject property is located on the southeast side of Boston Post Road, approximately 40 feet west of its intersection with Mansfield Avenue, and is shown on Assessor's Map #71 as Lot #7, CBD Zone.

The Commission members concluded that the Special Permit for the office use from the ground floor would be appropriate in this very specific situation and instructed the staff to draft a Resolution to that effect. Action will be taken on the application at an early November meeting.

Chairman Damanti read the following agenda item:

Special Permit Application #60-H, Country Club of Darien, 300 Mansfield Avenue. Proposing to demolish two existing maintenance sheds and to construct two new maintenance buildings and perform related site development activities. The subject property is located on the east side of Mansfield Avenue, approximately 1,250 feet south of its intersection with Middlesex Road, and is shown on Assessor's Map #5 as Lot #40, R-2 Zone.

This project involves the construction of maintenance buildings. Chairman Damanti said that the area was a virtual junkyard in the past and that many of the old 55 gallon drums, discarded machinery and other debris has already been removed. Mr. Kenny said that there should be a loading dock with containment facilities as part of the project. Other Commission members agreed that the project should be approved with the condition and stipulation that there be no outside storage or junkyard and no mechanical equipment stored outside at any time in the future. The staff will draft a Resolution for consideration at a future meeting.

Approval of Minutes

May 25, 2004 Public Hearing

The following motion was made: that the minutes be adopted as presented. The motion was made by Mr. Spain, seconded by Mrs. Forman and unanimously approved.

September 28, 2004 Public Hearing/General Meeting

The following motion was made: that the Commission adopt the minutes as presented. The motion was made by Mr. Conze, seconded by Mr. Spain and unanimously approved.

Any Other Business (requires two-thirds vote of Commission)

Mr. Ginsberg said that there are two items of other business: the Pear Partners' proposed redevelopment of the Darien Playhouse site at 1071-1077 Boston Post Road, and the meeting schedule for November. The following motion was made: that the Commission consider these two items under other business. The motion was made by Mr. Kenny, seconded by Mr. Conze and unanimously approved.

Amendment of Business Site Plan #90-K, Pear Partners, 1071-1077 Boston Post Road

Thomas Golden, one of the partners of Pear Partners, explained that they are proceeding with construction and need to request several minor modifications with respect to the parking. Architect

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Seelan Pather of Do H. Chung and Partners, explained that the electrical transformer could not be installed in the location specified on the design drawings because of 36" diameter drain pipes that run under the area. The contractor has installed the transformer slightly to the north and west of where it was originally intended. This eliminates two of the three parking spaces in that area. One of the eliminated parking spaces can be relocated to the north side of Grove Street (where two parking spaces had originally been approved). This means that there is a net loss of one parking space. Commission members discussed the situation and noted that it is appropriate that the architect show a detailed plan of the revised parking locations and of the relocated transformer. The plan should also show the installation of bollards to protect the transformer from being hit by vehicles.

The Commission members discussed the situation at length and the following motion was made: that the Commission approve the requested modification regarding the transformer location and relocation of parking spaces and reduction of the parking spaces. The parking space labeled as Number 1 on the revised plan is to be designated as the Movie Theatre Manager's parking space so that if the vehicle needs to be moved, it will be under the control of the Movie Theatre Manager. The motion was made by Mr. Kenny, seconded by Mr. Conze and unanimously approved.

Meeting Schedule in November

The Commission members noted that a meeting is scheduled for Election Day, November 2nd. Since this is a national election, the Commission members agreed that it would be best to cancel the November 2nd meeting. All members concurred with this cancellation. Mr. Ginsberg will notify the Town Clerk accordingly.

Chairman Damanti read the last agenda item:

Discussion of 2005 Town Plan of Conservation & Development

Review of revised draft of Housing Chapter (Chapter 7) and Housing Appendix (Appendix G).

Mr. Ginsberg noted that since the Commission had made significant progress on the Plan to-date, it was best to provide a binder containing all of the draft material written up to now. Commission members reviewed the draft chapters of the Town Plan of Conservation and Development. They discussed format, style, consistency, and other aspects of the drafts. Mr. Conze mentioned that tables should have a professional consistent look to them throughout the document. He also noted that it would be helpful to have a basic street map contained somewhere within the document. Mr. Ginsberg will make revisions to the drafts as comments are received. One of the issues that was raised was whether a professional layout person will be hired by the Town to review and update the format of the entire Town Plan prior to preparing a final draft for review. Commission members will not decide that issue until Mr. Ginsberg has had an opportunity to make the revisions discussed at the meeting.

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There being no further business, the meeting was adjourned at 9:40 p.m.

Respectfully submitted,

David J. Keating
Assistant Director of Planning

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